

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

[Proposed] ORDER

:

-v-

18 Cr. 425 (JMF)

:

LAWRENCE McAFEE,

:

Defendant.

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WHEREAS, LAWRENCE McAFEE (the "defendant") was charged in an Indictment filed on June 14, 2018 (the "Indictment") in Count One with conspiracy to commit Hobbs Act Robbery and in Count Two with Hobbs Act Robbery;

WHEREAS, on March 2019, November 25, 2019, and March 31, 2020, medical professionals opined, pursuant to 18 U.S.C. § 4241, that the defendant was presently suffering from a mental disease or defect rendering him mentally incompetent and unable to assist in his defense;

WHEREAS, following a period of pretrial release and then remand, on June 9, 2022, the court ordered that the defendant be hospitalized by the Federal Bureau of Prisons ("BOP") to determine whether the defendant was competent to proceed in this matter pursuant to 18 U.S.C. § 4241, and whether the defendant met the criteria for dangerousness pursuant to 18 U.S.C. § 4246;

WHEREAS, on October 11, 2022, following a period of evaluation in the Eastern District of North Carolina, and in response to the June 9, 2022 order, the BOP opined that the defendant "is currently

suffering from a mental disease or defect which renders him not competent to stand trial” and further determined that “a certificate of dangerousness was recommended to be filed in the Eastern District of North Carolina for further evaluation”;

WHEREAS, on October 26, 2022, a certificate of mental disease or defect and dangerousness was filed in the U.S. District Court for the Eastern District of North Carolina instituting proceedings to determine whether the defendant met the criteria for commitment pursuant to 18 U.S.C. § 4246(a). See *United States v. Lawrence McAfee*, 22-HC-2183-BO (“the EDNC Action”);

WHEREAS, a motion to dismiss the Indictment with prejudice was filed by the defendant on June 16, 2022;

WHEREAS, upon dismissal of the Indictment, the defendant does not challenge that he is subject to continued remand to the custody of the Attorney General pending further proceedings in the EDNC Action pursuant to 18 U.S.C. § 4246(b).

NOW, without objection from the defendant or the Government, the COURT FINDS that: (1) the defendant is presently suffering from a disease or defect rendering him mentally incompetent and is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, and (2) there is no substantial probability in the foreseeable future the defendant will attain the capacity to permit the proceedings to go forward;

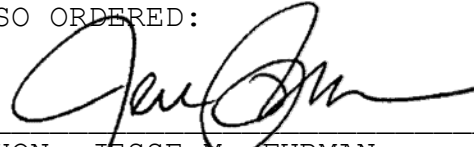
On the defendant's motion to dismiss the Indictment, and without objection from the Government due to the defendant's incompetency finding and the defendant's agreement not to challenge that he is subject to the continued custody of the Attorney General pending further proceedings in the EDNC Action,

IT IS HEREBY ORDERED, that all criminal charges contained in the Indictment are dismissed with prejudice solely for reasons related to the mental condition of the defendant;

IT IS FURTHER ORDERED pursuant to 18 U.S.C. § 4246(b) that the defendant shall continue to be committed to the custody of the Attorney General, or his authorized representatives, who shall continue to hospitalize the defendant for further proceedings in the United States District Court for the Eastern District of North Carolina in the matter entitled *United States v. Lawrence McAfee*, 22-HC-2183-BO.

November 14, 2022

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Jesse M. Furman', is written over a horizontal line.

HON. JESSE M. FURMAN
United States District Judge
Southern District of New York

The Clerk of Court is directed to terminate ECF Nos. 131 and 153 and to close this case.